

IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DISTRICT

IN RE:

CIRCUIT CITY STORES, INC.,)	CASE NO. 08-35653-KRH
et. al.)	
)	CHAPTER 11
)	
)	JOINTLY ADMINISTERED
Debtors.)	

RESPONSE OF THE UNITED STATES OF AMERICA TO LIQUIDATING
TRUST'S EIGHTEENTH OMNIBUS OBJECTION TO CLAIMS FILED
BY TAXING AUTHORITIES

The United States of America, on behalf of its Internal Revenue Service, by and through undersigned counsel, hereby responds to the liquidating trust's eighteenth omnibus objection to claims filed by taxing authorities as follows:

1. An objection to claim constitutes a contested matter.
2. The Liquidating Trust, through its counsel, has failed to properly serve its objection to the claims of the Internal Revenue Service in that it has failed to serve the United States of America in accordance with Bankruptcy Rule 9014 and Bankruptcy Rule 7004(b)(4) and (5)

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3. By failing to properly serve the United States of America, the Liquidating Trust has failed to invoke the jurisdiction of this Court to hear the objection to the claims of the Internal Revenue Service (Service).

4. The Liquidating Trust's objections to the three proofs of claim filed by the Service lack substance or factual support, contain incomplete, misleading and self-serving statements and utterly fail to establish the necessary factual basis for granting the relief requested.

5. A portion of claim number 11845 covers the debtor Circuit City Stores' liability for Employers Quarterly Tax Returns (Forms 941) for the quarters of 2004, 2005, 2006, 2007 and 2008. The Service's Richmond Appeals Office reached a settlement with the debtor Circuit City Stores, Inc. which determined that there was a deficiency in tax for its Employers Quarterly Tax Returns (Forms 941) for the quarters of 2004, 2005, 2006, 2007 and 2008 in the amount of \$1,940,877.04. The parties well understood and agreed that interest pursuant to I.R.C. §§ 6621 and 6622 was applicable to the deficiency in tax and that interest continued to accrue in was payable pursuant to the provisions of the Internal Revenue Code. The Liquidating Trust's assertion that claim number 11845 filed by the Internal Revenue Service in the amount of \$5,414,021.36 be allowed only

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in the amount of \$1,940,877.04 to "reduce principal tax per appeals settlement" is misleading, at best, with respect to the terms of the settlement. Further it totally ignores the fact that claim number 11845 included among other liabilities an outstanding liability for restricted interest owed with respect to the debtor Circuit City Stores, Inc.'s corporate income tax returns and net operating loss carrybacks involving its fiscal years ending February 28, 2004 through 2009 and that debtor's tax counsel had agreed to the existence and obligation to satisfy.

6. The Liquidating Trust's objection to the Service's claim number 11847 filed for Circuit City Stores PR, LLC and its objection to the Service's claim number 14816 filed for Patapsco Designs, Inc. seeks to have the claims expunged based on the self-serving statement that "debtors' books and records reflect no liability." Claim number 11847, an unsecured general claim in the amount of \$441.54, is a failure to timely deposit penalty which was assessed on December 29, 2008 with respect to Circuit City Stores PR, LLC's liability for Employers Quarterly Tax Return (Form 941) for the second quarter of 2008 and for which notice and demand for payment were properly made pursuant to the Internal Revenue Code. Claim number 14816 in the total amount of \$19,069.07 is an additional audit assessment made on October

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16, 2006 with respect to Patapsco Designs, Inc. liability for Employers Quarterly Tax Return (Form 941) for the last quarter of 2004 and with respect to which notice and demand for payment were properly made pursuant to the Internal Revenue Code.

WHEREFORE, the United States of America requests the Court determine that the Liquidating Trust failed to properly serve the United States of America, and enter an order overruling the objections to the claims of the Internal Revenue Service.

Respectfully submitted,

NEIL H. MACBRIDE
United States Attorney

By: /s/ Richard F. Stein
Richard F. Stein
Special Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2011, a true and accurate copy of the foregoing RESPONSE OF THE UNITED STATES OF AMERICA TO LIQUIDATING TRUST'S EIGHTEENTH OMNIBUS OBJECTION TO CLAIMS FILED BY TAXING AUTHORITIES was electronically filed with the Clerk of the Court using the CM/ECF system, which will thereby cause the above to be electronically served on all registered users of the ECF system that have filed notices of appearance in this matter, and was mailed, by U.S. Mail, first class, postage prepaid, and to

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I further hereby certify that on April 6, 2011, a true and accurate copy of the foregoing RESPONSE OF THE UNITED STATES OF

AMERICA TO LIQUIDATING TRUST'S EIGHTEENTH OMNIBUS OBJECTION TO
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to

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